

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DANNY REYNOSO,

Plaintiff,

- against -

MEMORANDUM & ORDER
21-CV-6237 (PKC) (LB)

LOUIS DEJOY POSTMASTER GENERAL,

Defendant.

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PAMELA K. CHEN, United States District Judge:

On November 3, 2021, Plaintiff Danny Reynoso, proceeding *pro se*, filed this employment discrimination action against his employer, the United States Postal Service. (*See* Complaint, Dkt. 1.) Before the Court is Plaintiff's request to proceed *in forma pauperis* ("IFP"). (Application to Proceed in District Court Without Prepaying Fees or Costs ("IFP Application"), Dkt. 2.) For the reasons below, the Court denies Plaintiff's application.

"The federal IFP statute[, 28 U.S.C. § 1915,] allows indigent litigants to file lawsuits without prepaying the filing fees." *Humphrey v. U.S. Army Corps of Engineers*, No. 21-CV-1901 (RPK) (LB), 2021 WL 1837791, at *1 (E.D.N.Y. May 7, 2021). It is "intended for the benefit of those too poor to pay or give security for costs." *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 344 (1948). A plaintiff seeking to proceed IFP must submit an affidavit stating "that the person is unable to pay" filing fees "or give security therefor" and must include "a statement of all assets" the person possesses. 28 U.S.C. § 1915(a)(1). A litigant may proceed IFP if "[he] cannot because of his poverty pay or give security for" the costs of filing "and still be able to provide himself and [his] dependents with the necessities of life." *Adkins*, 335 U.S. at 339 (quotations and alterations omitted).

“Under 28 U.S.C. § 1914(a), the base filing fee to commence a civil action is \$350.” *Richards v. Allied Universal Sec.*, No. 19-CV-2043 (PKC) (RML), 2019 WL 1748599, at *1 (E.D.N.Y. Apr. 18, 2019). “Section 1914(b) provides that the Clerk of Court shall collect additional fees as prescribed by the Judicial Conference of the United States” *Id.* (citing 28 U.S.C. § 1914(b)). The current total fee to file a civil case in this Court is \$402. *See Court Fees*, UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF NEW YORK, <https://www.nyed.uscourts.gov/court-fees> (last visited, Nov. 15, 2021).

“The question of whether a plaintiff qualifies for *in forma pauperis* status is within the discretion of the Court.” *Richards*, 2019 WL 1748599, at *1 (citing *DiGianni v. Pearson Educ.*, No. 10-CV-206 (RJD) (LB), 2010 WL 1741373, at *1 (E.D.N.Y. Apr. 30, 2010)). Section 1915(e)(2)(A) directs a court to dismiss a case if at any time the court determines that “the allegation of poverty is untrue.” 28 U.S.C. § 1915(e)(2)(A).

Here, Plaintiff indicates that he has \$13,000 dollars in his checking or savings account and is currently employed with take-home pay of \$1,078.45 (the term is not discernable). (IFP Application, Dkt. 2, at 1-2.) He provides that he has monthly expenses totaling \$2,120, and school, car, and credit card debts totaling \$26,800. (*Id.* at 2.) Plaintiff’s IFP application does not establish that he is unable to pay the filing fee. Therefore, Plaintiff’s request to proceed IFP is denied.

CONCLUSION

Plaintiff’s Application to Proceed in District Court Without Prepaying Fees or Costs is denied. To proceed with this action, he must pay the \$402 filing fee to the Clerk of Court within 14 days of the date of this Order. If Plaintiff fails to comply with this Order within the time allowed, the case shall be dismissed without prejudice. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore *in*

forma pauperis status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444–45 (1962).

SO ORDERED.

/s/ Pamela K. Chen

Pamela K. Chen

United States District Judge

Dated: November 17, 2021
Brooklyn, New York